

EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICIES AND PROCEDURES TRAINING



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Why are we here?

- Equal Employment Opportunity Commission (EEOC) established minimum standards and guidelines for agency use in developing anti-harassment policy and complaint procedures that should contain, at a minimum, the following elements:
 - **A clear explanation of prohibited conduct;**
 - **Assurance that employees who make claims of harassment or provide information related to such claims will be protected against retaliation;**
 - **A clearly described complaint process that provides accessible avenues for complainants;**
 - **Assurance that the employer will protect the confidentiality of the individuals bringing harassment claims to the extent possible;**
 - **A complaint process that provides a prompt, thorough, and impartial investigation; and**
 - **Assurance that the employer will take immediate and appropriate corrective action when it determines that harassment has occurred.**

THE LAW



- Civil Rights Act of 1964, requires All personnel actions, affecting employees or applicants for (Federal) employment... Shall be free from any discrimination based on race, color, religion, sex or national origin.

Rehabilitation Act of 1973 and the ADA

- No personnel actions may be made which are based on real, perceived or a history of disability.
- Reasonable Accommodation is required for qualified employees with disabilities.
- The Underlined Terminology is critical!!

Age Discrimination in Employment Act of 1967

- “All personnel actions affecting employees or applicants for (Federal) employment, who are at least 40 years of age . . . Shall be made free from any discrimination based on age.”

Unlawful Bases of Discrimination

- **Discrimination is prohibited on the following bases:**
- **Age (over 40)**
- **Sex**
- **Race**
- **Religion**
- **National Origin**
- **Disability**
- **Color**
- **Reprisal**

ACCOUNTABILITY

EEO
DISCRIMINATION
COMPLAINT
PROCESS

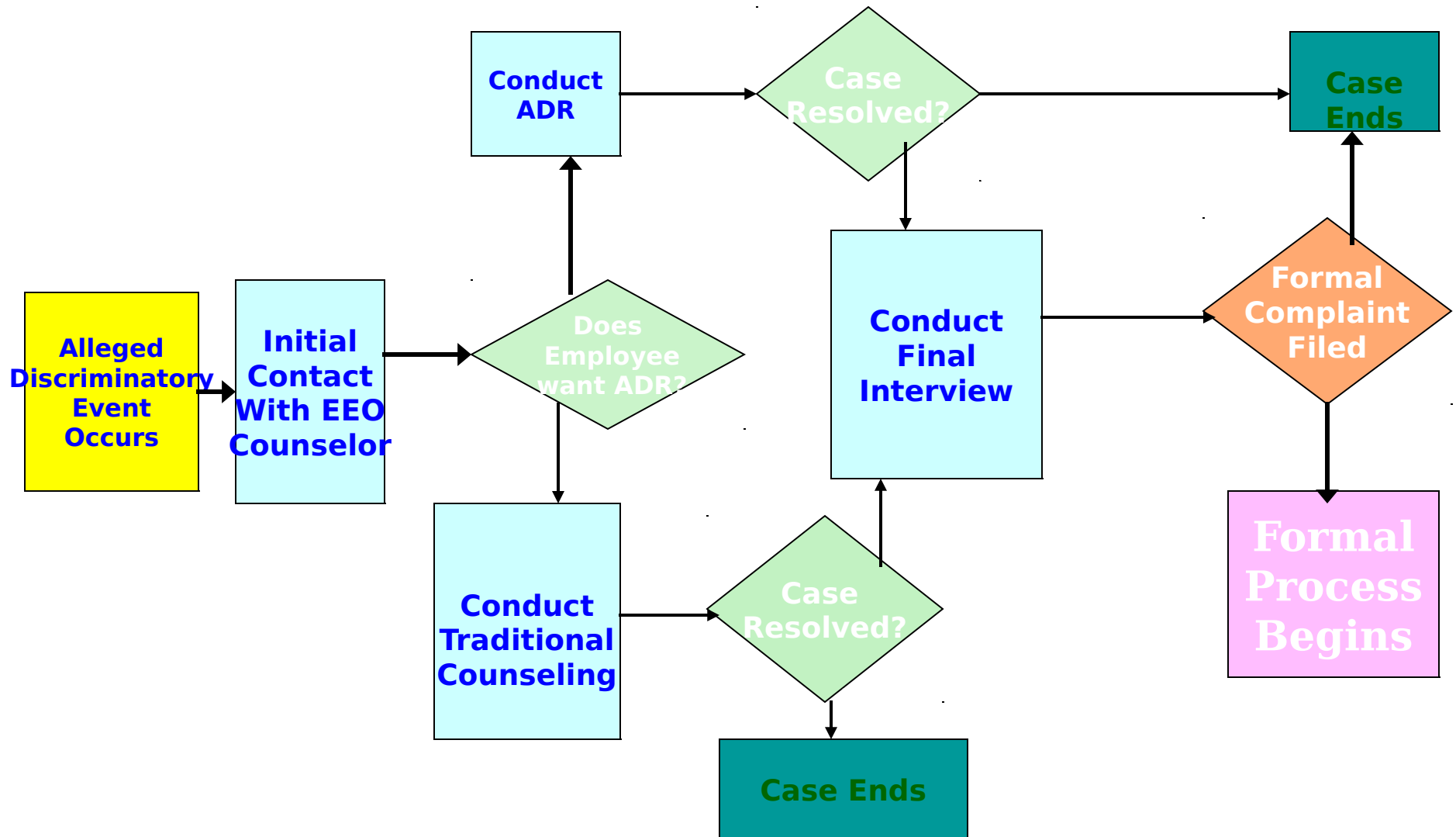
EEO Statutes

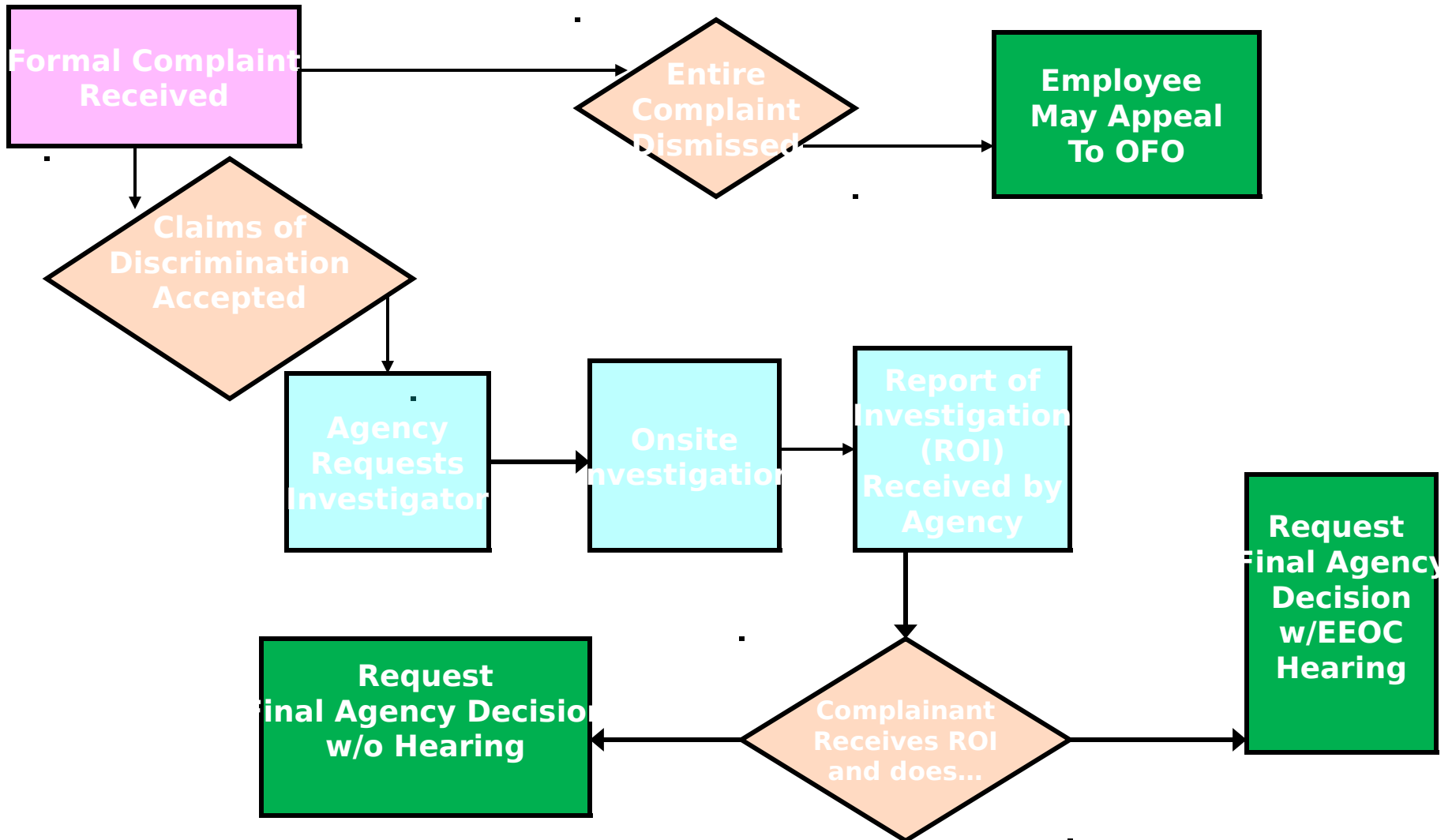
- **Title VII of the Civil Rights Act of 1964**
 - Prohibits discrimination based on race, color, religion, sex, and national origin.
- **Age Discrimination in Employment Act of 1967**
 - Prohibits discrimination on the basis of age (40 years and older).
- **The Rehabilitation Act of 1973**
 - Prohibits discrimination the basis of mental and physical disability.
- **Equal Pay Act of 1963**
 - Prohibits sex-based wage discrimination.

All statutes prohibit reprisal or retaliation against individuals exercising their rights under the statutes.

EEO Discrimination Complaints

- If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must:
 - Contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action; or,
 - In the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. (See 29 CFR 1614.)
 - Every individual alleging discrimination must first go through the pre-complaint or counseling phase of the EEO discrimination complaint process.





Other Circumstances

- If you believe that you have been the victim of unlawful discrimination on the **basis of age**, you may either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action.
- If you are alleging discrimination based on **marital status or political affiliation**, you may file a written complaint with the U.S. Office of Special Counsel (OSC). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whom Should You Contact?

**The USUHS Equal Employment
Opportunity (EEO) Office:**

295-3032 or pburke@usuhs.mil

Responsibilities

- **Agency Heads, and officials with delegated personnel management authority are responsible for:**
 - Preventing prohibited personnel practices
 - Complying with and enforcing civil service laws, rules and regulations
 - Ensuring that employees are informed of their rights and remedies.

Merit Systems Principles

- **Recruit, select, and advance on the basis of merit after fair and open competition**
- **Treat employees and applicants fairly and equitably**
- **Provide equal pay for equal work; reward excellent performance**
- **Maintain high standards of integrity, conduct and concern for the public interest**
- **Use human resources effectively and efficiently**
- **Retain or separate employees on the basis of their performance**
- **Provide employees with effective training and education**
- **Protect employees from reprisal for lawful disclosures.**

12 Prohibited Personnel Practices

- **Generally stated, § 2302(b) provides that a federal employee authorized to take, direct others to take, recommend or approve any personnel action may not:**
 - Discriminate against an employee or applicant based on race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation;
 - Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics;
 - Coerce the political activity of any person;
 - Deceive or willfully obstruct anyone from competing for employment;
 - Influence anyone to withdraw from competition for any position so as to improve or injure the employment prospects of any other person;
 - Give an unauthorized preference or advantage to anyone so as to improve or injure the employment prospects of any particular employee or applicant;
 - Engage in nepotism (*i.e.*, hire, promote, or advocate the hiring or promotion of relatives);

12 Prohibited Personnel Practices

- **Continued:**

- Engage in reprisal for whistleblowing ;
- Take, fail to take, or threaten to take or fail to take a personnel action against an employee or applicant for exercising an appeal, complaint, or grievance right; testifying for or assisting another in exercising such a right; cooperating with or disclosing information to the Special Counsel or to an Inspector General; or refusing to obey an order that would require the individual to violate a law;
- Discriminate based on personal conduct which is not adverse to the on-the-job performance of an employee, applicant, or others;
- Take or fail to take, recommend, or approve a personnel action if taking or failing to take such an action would violate a veterans' preference requirement; and
- Take or fail to take a personnel action, if taking or failing to take action would violate any law, rule or regulation implementing or directly concerning merit system principles at [5 U.S.C. § 2301](#).

Protected Activity:

Opposition to Discriminatory Practice

- **Opposition to a discriminatory practice**

- The anti-retaliation provisions make it unlawful to discriminate against an individual because s/he has opposed any practice made unlawful by Title VII, the ADEA, the EPA, or the Rehab Act.
- A complaint amounts to protected opposition only if the individual **explicitly or implicitly** communicates a belief that the practice constitutes unlawful employment discrimination.
- The opposition clause does not require the person be correct in their belief that the agency's employment practice they opposed actually violated Title VII, the ADEA, the EPA, and/or the Rehab Act.
- The opposition clause protects the individual provided that they had a **good faith and reasonable belief** that a violation of the EEO statutes had or was occurring.

Protected Activity: Participation in the EEO Process

- **Participating in the EEO process.**
 - Title VII, the ADEA, the EPA, and the Rehab Act make it unlawful to discriminate against any individual because s/he has filed a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, hearing, or litigation under any of the anti-discrimination statutes.
 - While the opposition clause applies only to those who protest practices that they reasonably and in good faith believe are unlawful, the participation clause applies to all individuals who participate in the EEO complaints process.
 - An agency can be found liable for retaliating against an individual for filing an EEO complaint regardless of the merits or reasonableness of the original complaint.



Date